



## **DELAWARE HEALTH FUND ADVISORY COMMITTEE**

### **Public Meeting**

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Health Fund Advisory Committee  
October 15, 2018 – 2:00 p.m. to 4:00 p.m.

## **MINUTES**

<b>Present:</b>	Secretary Kara Odom Walker Representative Ed Osienki Senator Bryan Townsend Mr. Don Fulton Mr. Perry Patel Dr. Charles Reinhardt Ms. Elisabeth Scheneman	<b>Absent:</b>	Rep. Debra Heffernan Sen. Catherine Cloutier Ms. Paula Roy (on phone)
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### **I. Welcome and Introductions**

- The meeting began at 2:03 p.m.
- All committee members and members of the public introduced themselves.
- The committee was notified that Senator Catherine Cloutier was appointed to serve on the committee in the place of Senator McBride.

### **II. Approval of Minutes from the March 26, 2018 Meeting**

- There were no changes made to the minutes. Dr. Reinhardt motioned to accept the minutes, Mr. Fulton seconded the motion. The minutes were approved.

### **III. Litigation Update**

- Thomas Brown, Deputy Attorney General (DAG), Delaware Department of Justice thanked the committee. He is the DAG specifically tasked with all the Tobacco Master Settlement Agreement negotiations.
- Deputy Attorney General Brown gave an overview of why the work of the committee is so important, and he applauded the members for continuing to observe the spirit of the committee by directing money to programs that curb smoking. He then acknowledged that he wanted to be brief given the agenda, but said he would be available at any time for committee questions around the MSA.
- Delaware receives a small percentage (4/10 of a percent) for an annual payment from the nationwide payment. In April, the state received a payment of about \$32.4 million. Since 1998, the state has received a cumulative sum of about \$525 million. It has provided a good source of income for the state of Delaware over the years. From 2008-2017 the state's annual payment benefited from an MSA

Section 9c2 payment, which applied a larger multiplier (0.00075) to a portion of the payment Delaware receives. That was an additional approximately \$3 million each year. Contractually this was scheduled to go away and it has done so. They have now begun negotiations for settlement agreements. Other states did so in 2011 but he did not think that was a good idea at the time. They have formed a coalition of 10 relatively small states and had a fairly dynamic negotiation. They'd hoped to conclude negotiations in 2017, but that did not happen because of the changes in the tax law. As a result of reaching settlement in April 2018, the payment is higher than he had guessed it would be when he presented to the committee last fall.

- d. There are two substantial parts of the settlement:
  - a. They joined a term sheet with additional information.
  - b. There is a state-specific side letter which has some beneficial terms for Delaware moving forward, including that the PM's will not be withholding disputed sums going forward (which will yield year to year consistency) and the sums will be spread out over several years.
- e. Though the MSA payment is very uncertain, Deputy Attorney General Brown estimates that this year the state will receive \$32.4 million. He hopes this will be consistent over the next couple of years.
- f. DAG Brown's team is tasked with diligently enforcing the statute and now the terms of the settlement. As their tasks evolve they will need to implement and create new procedures. Their FY 20 request to the Health Fund Committee is to support his position as a senior DAG, a paralegal, and some incidental travel and litigation expenses. Based on prior discussions, he hopes that the committee understands the importance of protecting this revenue stream and they appreciate the continued support of the committee.

#### **IV. Budget Update**

- a. John Nauman, Office of Management and Budget (OMB), thanked the committee for the chance to give a budget update.
- b. He discussed the FY 19 financial package, including the General Fund Operating (grew by 3.99%), Budget, Bond and Capital Improvements Act, Grant-in Aid, and a one-time supplemental appropriation. There was also a one-time cash supplement of \$189.0 million. The State is authorized to appropriate 98% of resources, but in FY 19 only appropriated 97% which saved \$47 million.
- c. The main cost drivers for the state include:
  - i. Enrollment for schools
  - ii. Health care
  - iii. Medicaid
  - iv. Mandated Salary Costs
  - v. Pay
  - vi. Debt service
- d. These cost drivers will eventually start to exceed the estimated budget projection.

- e. Mr. Nauman discussed Executive Order (EO) 21, which stems from the work and report of the Advisory Panel to DEFAC to Study Potential Fiscal Controls and Budget Smoothing Mechanisms. EO 21 provides for a Budget Stabilization Fund for reporting and budget planning purposes only and for calculating in December and May the Advisory Benchmark Index, Advisory Benchmark Appropriation, and extraordinary revenues/shortfalls. The Benchmark Index will be reviewed and changes recommended at least every five years.
- f. In FY 20, the state still needs to budget for a sustainable future. The five year revenue growth trend is approximately 3.0% annually. OMB is using EO 21 as a guide for their planning process by focusing on one-time investments and saving for future expected downturns. DEFAC is concerned about the yield curve becoming flat. If the yield curve inverts then a recession is to follow. Recovery from the Great Recession has lasted nine years. This is the longest rally on record since WWII and until recently has been the weakest.
- g. Mr. Nauman gave an overview of the budget cycle timeline, including DEFAC meeting dates, the date of the Governor's Recommended Budget release, and Joint Finance Committee and Bond meetings.
- h. Mr. Fulton asked what the source was of the 3.99% growth in revenue.
  - i. Mr. Nauman responded that it was partly from Personal Income Tax. With the federal tax cuts that will abate. It was also partly made up of revenue from unclaimed property from large audits.
  - ii. Mr. Fulton said he was surprised that Delaware is trending the opposite direction of many states. Does the General Assembly still have to vote to fund the recommendations from EO 21?
  - iii. Mr. Nauman responded yes.

## **V. Process for Developing FY 20 Recommendations**

- a. Secretary Walker reviewed the changes to the application process that were approved by the committee at the last meeting. This application cycle there is an updated application that includes questions regarding duplicative services, the effectiveness of programs, the necessity of funding, and sustainability. New applications were accepted this year. OMB has approved HFAC's request to present their recommended budget to the Joint Finance Committee.
- b. Secretary Walker gave an overview of the timeline for committee meetings. Two additional meetings are scheduled, one in October and one in November. The final recommendations are due to Governor Carney and the General Assembly on November 15<sup>th</sup>.
- c. Seeing no questions, she moved on to discuss the three proposed funding scenarios in committee members' folders.
  - a. Scenario 1 funded all programs at the level of their FY 20 request.
  - b. Scenario 2 funded all programs at the FY 19 level except DHSS entitlements and programs that requested less funding in FY 20 than FY 19.

- c. Scenario 3:
  - i. Switch-funded behavioral health programs
  - ii. Eliminated funding for workforce programs
  - iii. Eliminated funding for autism program
  - iv. Created Innovation Fund
  - v. Funded all remaining programs at FY 20 request level
- d. Secretary Walker asked the committee if there were any questions or thoughts about these scenarios. A variety of scenarios can be created for the next meeting based on thoughts from committee members.
- e. Mr. Fulton asked if any new programs applied.
  - a. Secretary Walker said yes, they are listed under “New Programs” on the scenarios and include the Healthy Communities project from DPH, funding for the DHSS Library, and a Social Determinants of Health project from DMMA.
- f. Rep. Osienski asked if the new program requests would be included in DHSS’s budget request from JFC.
  - a. Michele Stant, DHSS Budget Manager, responded that what is included in the DHSS presentation to JFC in February would be dependent on the Governor’s Recommended Budget. They will have more answers after it is released.
  - b. Deputy Secretary Molly Magarik said they have requested in the past that some programs be switch-funded and found out in GRB that some were and some weren’t. It depends on the overall budget picture.
- g. Mr. Fulton, referencing Scenario 3, asked how the workforce programs would function in absence of HFAC funding.
  - a. Secretary Walker responded every application includes a question that asks the applicant how the program would be funded if it did not receive health funds. The issue of sustainability is important. These projects were initially funded when there was a severe nursing workforce shortage. That is not the case now. Perhaps the funding should just be reduced or paused this year.
  - b. Mr. Fulton said he remembered it was important in the past and though times change, he is still concerned about it- whether the funding comes from HFAC or not. He asked if there are any other applications that should also be examined for continued funding.
  - c. Secretary Walker said the autism program has had transition in leadership and still has some unspent funds. Funding for that program can also be paused and revisited in future years. It’s important to recommend funding for programs where there are proven outcomes and impact and effectiveness. This is an important conversation to have. Smoking cessation and prevention are a priority; those programs have been cut in the past but it’s now time to refocus on them.

- h. Sen. Townsend asked what the projected year is that the Delaware Prescription Assistance Program (DPAP) will no longer be needed.
  - a. Secretary Walker said the donut hole is closing in FY 19 but there will most likely always be people needing assistance with prescription costs. Some iteration of DPAP will be needed going forward, but it's hard to say what the dollar amount would be.
- i. Rep. Osienski asked if the DHSS Library project is a capital project.
  - a. Secretary Walker explained that the funding is for journal subscriptions and periodicals.
  - b. Deputy Secretary Magarik said they are requesting funding because funding from the Department of State is ending this year. The library is used by the residents of the Delaware Psychiatric Center as well as clinicians and other interested parties. It is a state-wide resource. The medical journals and subscriptions are particularly useful for those in Kent and Sussex Counties as they are often not near medical facilities with similar resources.
- j. Mr. Fulton, referencing Scenario 3, asked why only the Delaware School Survey under "Behavioral Health Programs" was receiving funding and the other programs listed weren't.
  - a. Secretary Walker said the other programs in that category aligned with other state and federal funding sources and could be funded through those avenues.
  - b. Mr. Fulton said some programs like Limen House and Gaudenzia also receive funding from outside of HFAC.
- k. Mr. Fulton asked for an explanation of the DMMA proposal about Social Determinants of Health.
  - a. Secretary Walker said they could do short presentations at the next meeting on the new programs. She explained that social determinants of health are the things that lead to better health outcomes that are outside of what a physician or prescription, such as nutrition, having a job, having transportation, etc. These things often matter more than what a doctor can do in their office. This program would help us understand our social determinants of health data, support universal screening for social determinants challenges across the entire Medicaid population, and provide incentives for MCOs to create closed loop referral processes and partnerships with community-based social service organizations that address social determinants. This is a novel program, only one other state is doing this, and she thinks it could make a huge difference.
  - b. Dr. Reinhardt asked if this was a one-time funding request.
  - c. Secretary Walker said yes. This is a project that has good sustainability that just needs help getting started.
- l. Secretary Walker said she could provide an overview of new programs, the workforce piece, and additional data on DPAP at the next meeting.

- m. Dr. Reinhardt asked for clarification on Rep. Osienski's earlier question about funding and what would be included in DHSS's budget request. If HFAC does not fund a project could it be added to the budget, or vice versa? It's hard to know what will end up where.
  - a. Secretary Walker agreed and said for this reason she's glad HFAC can present to JFC this year.
  - b. Deputy Secretary Magarik added that DHSS will publically present its budget to OMB in November. Comments from constituencies will impact DHSS's budget and GRB.
- n. Sen. Townsend asked if the Secretary was saying that any program being cut significantly is receiving other funding elsewhere.
  - a. Secretary Walker said no, but they can talk about overlap. They can also discuss the behavioral health work and what is aligned.
  - b. Sen. Townsend asked if individual applications could be highlighted.
  - c. Secretary Walker responded that the committee in March had decided that if we can't talk about all applications individually we shouldn't talk about one, and it would be challenging time-wise to review all applications.
- o. Rep. Osienski said in prior years they tried to eliminate the DelTech nursing program from HFAC funding, but put in language that funding needed to come from JFC. It stipulated that if there was no funding from JFC then it would be funded from HFAC. If it had been funded through the General Fund that would have freed up more HFAC funds to be used on other projects.
- p. Sen. Townsend, referencing Scenario 3, asked if they had made tough cuts like this before in the past. If not this year then when?
  - a. Secretary Walker responded that in other scenarios there have been across the board cuts to fit available funds. There is always more funding requested than there is available. It's a tough decision. As a committee they decided to cut all programs equally in the past. Cutting some programs a little bit may actually result in cutting the program permanently since they may not be able to operate without all funds. The committee can more closely examine applicants' applicants.
  - b. Sen. Townsend asked if that level of granular analysis had been done previously and if not, will it be in the future. There have been cuts of broad categories but they should be having more nuanced health conversations.
  - c. Secretary Walker explained that was the reasoning behind the committee's discussion in earlier meetings of having presentations from each applicant, so that the committee could look at the programs more fully. To do that the committee would have had to meet several times earlier this year. They were not able to do so, but they can look at the programs in a broad context. Trends have changed. There are more federal funds for behavioral health programs. Trends in nursing workforce have changed. She is happy to give more context if necessary. The committee could and should think

in future terms in how to engage in that type of back and forth and how to know what to cut from where.

- d. Mr. Fulton said he's not sure this is feasible unless the committee commits as a group to go through every application and examine the positives and negatives, look at their success rates, the ability to leverage other funding, etc. Until they reach the point where the group is willing to invest that type of time they can't really do that.
- q. Senator Townsend said he would be interested in seeing a Scenario 4 that doesn't make broad cuts of programs but makes smaller changes to specific programs that reflect shifting priorities.
  - a. Secretary Walker said they can make additional scenarios with the nuanced cuts he is talking about.
  - b. Sen. Townsend said it'd be helpful to know what the data justifies.
  - c. Mr. Fulton noted that data can sometimes be misleading. The state has been successful at reducing the number of smokers, but cutting funding for smoking prevention programs could lead to an increase in smoking. It's important to not reverse positive trends.
  - d. Secretary Walker agreed, adding that now vaping is emerging as a new trend as well.
- r. Mr. Fulton thanked Deputy Attorney General Brown for his efforts over the years to secure this funding.

#### **VI. Public Comment**

- a. Susan Veenema, Delaware Network for Excellence in Autism (DNEA), responded to earlier comments about the program. They are making tremendous momentum and have partnerships with Nemours, Autism Delaware, and a new relationship with the DSCYF Division of Prevention & Behavioral Health. A funding cut would make it difficult for them to offer their services as the autism rate is 1 in 59. They will be bringing a new director on in a few months.
- b. Jonathan Kirch, American Heart Association, said he was heartened by the end of the discussion about tobacco use. Tobacco use is different in each socioeconomic group. This committee and the funding of the Health Fund should always primarily fund the reduction of tobacco use. He agreed that vaping is emerging as a trend among minors, due in large part to the way it is marketed.

#### **VII. Next Public Meetings**

- a. The next public meetings will be held:
  - i. Monday, October 29<sup>th</sup>, 2018
    - 1. 1pm – 3pm, DHSS Chapel
  - ii. Tuesday, November 13<sup>th</sup>, 2018
    - 1. 9am – 11am, DHSS Chapel

#### **VIII. Adjournment**

- a. Rep. Osienski made a motion to adjourn the meeting. The motion was seconded by Dr. Reinhardt. The meeting was adjourned at 3:18 p.m.